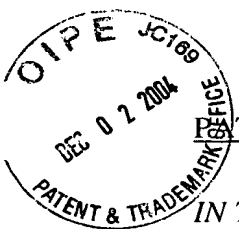


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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 3683 }
Atty. Docket: 8266-0740 }
Applicant: Mobley et al. }
Title: HOSPITAL BED AND CASTER }
BRAKING SYSTEM }
Serial No.: 09/992,455 }
Filed: November 26, 2001 }
Examiner: Sy, Mariano Ong }

Certificate Under 37 C.F.R. § 1.8(a)

I hereby certify that this correspondence is being transmitted to (703) 308-7725 at the United States Patent and Trademark Office, Alexandria, VA 22313-1450.

on November 29, 2004

Brenda Vandever

Brenda Vandever

Dated: November 29, 2004

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is respectfully submitted in response to issues raised in the Examiner's Answer mailed September 30, 2004.

Summary

The various reasons stated by the Examiner for rejecting claims including those provided in the Examiner's Answer, are not supported by the applied prior art references. Applicants believe that the Examiner's interpretations of the cited references are tainted by improper hindsight reasoning. As a result, the Examiner has failed to adequately appreciate the merits of Applicants' arguments as well as the deficiencies of the cited references.

Related Appeals and Interferences

The Examiner has stated that the Applicants' Appeal Brief does not contain a statement identifying the related appeals and interferences which will directly affect or will be directly affected by or have a bearing on the decision in the pending appeal. Applicants submit that such a statement was provided in the Reply Brief dated July 6, 2004 on page 2 in the section titled "Related Appeals and Interferences" and that there are no related appeals and interferences which will directly affect or be directly affected by or have a bearing on the Board's decision on the pending appeal.

Allowance of Claims 21-27

Applicants gratefully acknowledge the Examiner's withdrawal of the rejections to claims 21-27 under 35 USC 112, second paragraph, and the allowance of these claims.

Reply to Examiner's Response to Applicants' Argument

I. Claims 1-4, 8, and 10 are patentable over the combination of Reichow et al. in view of Hall.

Applicants believe that the Examiner fails to appreciate Applicants' claimed structure. Applicants maintain that neither Reichow nor Hall, either alone or in combination, disclose, teach or suggest a caster mounting tube including an interior surface configured to receive in abutting relationship the sleeve of a caster.

Reichow simply discloses a weighing bed 10. Conventional casters on a bed is admitted prior art disclosed in the Background and Summary of the Invention section of the present application. No details of the caster assemblies 45-45 are provided in Reichow.

Hall, does not relate to a caster on a bed, but instead relates to a Support System for a

Holding Rack. Hall discloses a holding rack 20 including a frame 24. An upright 40 is located adjacent a corner 36 of frame 24. An exterior support member 44 is disposed between upright 40 and outer perimeter of frame 24. A conventional caster 50 is positioned below and is rotatably secured relative to upright 40 and relative to exterior support member 44 by means of an extension 54.

In the Answer to Applicants' brief, the Examiner summarizes the teachings of Hall where he states that Hall discloses "as shown in fig. 2, a direct contact between rectangular mounting tubes 40,44 and caster sleeve 54." This statement, however, not only mischaracterizes the teachings Hall, but actually fails to appreciate the teachings of Hall.

Hall teaches that the uprights 40 receive an extension 54 of the caster 50 wherein the uprights 50 are received by exterior support member 44. Hall furthermore states that "the provisions of snugly fitting uprights receiving extensions of conventional casters, and then being received in turn by the novel exterior support members, yields a strong construction even though the assembly is by means of a detachable fastener, such as a bolt, and not be welding." (column 6, lines 28-34) It is clear from this language that the uprights receive the extension of the caster and that the uprights are received by the support members. The caster is not received by the support member.

Applicants believe that the Examiner has failed to point to any disclosure of Hall where the relationship between upright 40, exterior support member 44 and extension 54 teach or suggest the limitations recited in claim 1, more particularly, that of "... the interior surface [of the external side walls of the caster mounting tube] being configured to receive in abutting relationship the sleeve of a caster"

There is simply no disclosure in either the Reichow or Hall which suggests or teaches the abutting relationship as clearly recited in claim 1. Given that none of the cited references disclose this abutting relationship, Applicants fail to see how a combination of these references could possibly motivate one of ordinary skill in the art to arrive at the Applicants' invention. For at least these reasons, Applicants respectfully submit that the patient support apparatus as recited in independent claim 1 is patentable over the Reichow and Hall patents. Accordingly, Applicants submit that independent claim 1 is in condition for allowance.

Claims 2, 3, and 8 depend from claim 1 and are patentable over the Reichow and Hall patents at least for the reasons given above in connection with claim 1. Therefore, for at least these reasons, Applicants request reversal of the Examiner's rejection of claims 1-3, and 8.

II. Claim 4 is patentable over the combination of Reichow and Hall.

Claim 4 depends from the recited combination of claim 3 and includes the further limitation that the first external side wall abutting the base frame is formed to include a hole, that the base frame is formed to include a hole, that the hole in the base frame is aligned with the hole in the first external side wall, and wherein both holes are located between the first and second welds.

As stated in the Appeal Brief, Applicants believe that the combination of Reichow and Hall is improper. There is no suggestion in Hall of combining the methods of welding and rivets.

Moreover, there is no suggestion in Hall of providing a pair of holes located between first and second welds. As such, there is simply no teaching or suggestion in Reichow, alone or in combination with Hall, of the limitations of claim 4.

In the Examiner's answer, the Examiner states that the "Examiner takes Official Notice that it is old and well known to use rivets and welding together to better align and secure two parts of a device; in fact it is old and well known as disclosed by Sather US Patent Number 5,310,482(col. 7, lines 9-14) ... It would have been obvious to one of ordinary skill in the art to have utilized the combination of welding and fasteners such as rivets or bolts, wherein both have holes, into the apparatus of Reichow in order to securely attach the mounting tube to the base frame depending upon the load of the frame." (Examiner's Answer, pages 10-11)

Sather discloses a pulp dryer screen assembly including a rectangular screen and a rectangular frame having four interconnected, elongated frame members. (column 2, lines 40-43) The assembly includes means for clamping the edge portions of the screen, such as the edge portion 34 of FIG. 2, between the frame and the support members.

In this embodiment, the means is a plurality of rivets which are spaced-apart about the frame, one such rivet 80 being shown in FIG. 2. The rivets extend through corresponding aligned apertures in the support member and the frame member and through apertures formed in the screen itself. Thus the screen is tightly received between the two adjacent surfaces on each side of the frame and the adjacent support member.(column 5, lines 19-29)

The Examiner has cited Sather for the proposition that it is old and well known to use rivets and welding to better align and secure two parts of a device. Applicants submit however, that Sather discloses rivets extending through a support member, a frame member, and apertures in a screen for a particular purpose, that of holding the screen tightly in place. Applicants believe that Sather does not stand for the broad proposition stated by the Examiner that it is "old and well

known to use rivets and welding to better align and secure two parts of a device”.(Examiner’s Answer, page 10) While Sather discloses rivets extending through a support member, a frame member, and a screen, Applicants do not believe that Sather teaches or suggests that rivets extending through apertures are a proposed modification for a patient support apparatus having a caster. Applicants believe that the Examiner is using improper hindsight by his assertion of Official Notice and the use of Sather in concluding that claim 4 is not patentable over the combination of Reichow and Hall. Applicants believe that the Examiner has simply failed to provide any teaching or suggestion which would motivate one of ordinary skill in the art to arrive at the invention recited in claim 4.

III. Claims 5 and 6 are patentable under 35 U.S.C, 103(a) over Reichow in view of Hall, and further in view of Wisecarver and Stosberg.

Applicants believe that the Examiner improperly rejected claims 5 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Reichow in view of Hall, and further in view of Wisecarver and Stosberg.

In an attempt to support his position, the Examiner takes the position that it “is old and well known for selecting a square tubing with a thick wall, that is readily available material at the time of manufacturing by cutting a cylindrical cross-section through the square interior wall to receiving (sic) a cylindrical sleeve of a caster, is a matter of design choice or alternative equivalent that have the same intended function of sliding freely between the mounting tube and the sleeve, depending on the quantity to be made, availability of material at the time of production, and to save cost.” (Examiner’s answer, pages 12-13).

This conclusory statement by the Examiner does not satisfy the Patent and Trademark Office’s burden as clearly defined by the Federal Circuit. In its simplest form, the Examiner is essentially stating that the invention is obvious because he has taken notice of such. This simply does not satisfy the Patent and Trademark Office burden of establishing obviousness and circumvents the requirements of 35 U.S.C. § 103.

For these reasons, it is respectfully submitted that claims 5 and 6 are in condition for allowance. Applicants respectfully request reversal of the Examiner’s rejections of claims 5 and 6.


Conclusion

In view of the above and in view of Applicants' Appeal Brief dated July 6, 2004, Applicants submit that the Examiner's rejections are without merit. Applicants therefore request that the present rejections be reversed and a Notice of Allowance be issued in due course.

If necessary, please consider this a Petition for Extension of Time to effect a timely response. Please charge any additional fees or credits to the account of Bose McKinney & Evans, LLP Deposit Account No. 02-3223.

Respectfully submitted,

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